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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,203	03/24/2004	Masayoshi Ueno	M1909.1126	3717
32172 7590 08/21/2007 DICKSTEIN SHAPIRO LLP 1177 AVENUE OF THE AMERICAS (6TH AVENUE) NEW YORK, NY 10036-2714			EXAMINER RUSSELL, WANDA Z	
			ART UNIT 2616	PAPER NUMBER
			MAIL DATE 08/21/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/807,203	Applicant(s) UENO, MASAYOSHI	
	Examiner Wanda Z. Russell	Art Unit 2616	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. **Claims 9-12** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Regarding claim 9, the claimed program is non-statutory subject matter since it is not a process, machine, manufacture nor composition of matter; nor it is recorded on some computer-readable medium, see MPEP 2106(IV)(B)(1).

Regarding claims 10-12, dependent from claim 9, include same problems explained above.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. **Claims 1, 2, 5, 6, 9, and 10** are rejected under 35 U.S.C. 102(e) as being anticipated by Ohsuge (Pub No. US 2003/0026233).

For **claim 1**, Ohsuge teaches a CDMA receiver (Fig. 3, and [0039], line 1), comprising:

a path search section (1-Fig. 3, and [0039], line 3) for receiving signals (Fig. 3, receiving signals from antenna 2) from a plurality of base stations (multipath, [0039], line 3), and specifying finger allocation (5-Fig. 3, and [0041], lines 1-3) according to delay profiles (8-Fig. 3) of respective branch signals (Fig. 3, receiving signals from antenna 2) received from the plural base stations (multipath, [0039], line 3);

a plurality of fingers ([0042], last line) which are allocated to the branch signals based on the finger allocation specified by the path search section (see connections between 1 and 5 in Fig. 3); and

a rake receiving section (6-Fig. 3) for maximal-ratio-combining the power of a plurality of signals obtained from the fingers, which have been distributed due to their respective delays (see path 4-7-8-1-5 in Fig. 3);

wherein the path search section includes a path management section (16-Fig. 3) to search for paths in response to the branch signals ([0043], last 2 lines), and stores (memory, 16-Fig. 3) detected path information in a detected path table storing area in a memory (memory, 16-Fig. 3, and [0061], last 2 lines); and

wherein the number of paths which the path management section searches for is changed according to the number of received branch signals ([0018]. Fingers are directly related to branch signals. See [0012], lines 1-2. Also see [0062], line 11 & lines 1-end. "Repeatedly performs procedures ..." on line 11 of [0062] imply changes).

For **claim 2**, Ohsuge teaches the CDMA receiver claimed in claim 1, wherein, in the detected path table storing area, memory area and the address of memory area for storing detected path information with respect to each branch signal are changed

according to the number of branch signals ([0061], last 2 lines; and [0062], line 11 & lines 1-end. "Repeatedly performs procedures ..." on line 11 of [0062] imply changes).

For **claims 5 and 6**, they are method claims of claims 1 and 2, therefore they are rejected for the same reason above.

For **claims 9 and 10**, they are program claims of claims 1 and 2, therefore they are rejected for the same reason above.

***Allowable Subject Matter***

5. **Claims 3, 4, 7, and 8** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. **Claims 11, and 12** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and overcome the rejection(s) under 35 U.S.C. 101.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wanda Z. Russell whose telephone number is (571) 270-1796. The examiner can normally be reached on Monday-Thursday 9:00-6:00 EST.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on (571) 272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2616

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

WZR



  
SEEMA S. RAO 8/20/07  
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